

Medical Advisory Committee

July 6, 2021 1:00 PM – 3:00 PM

Large Conference Room, Bureau of Workers' Compensation, 220 French Landing Drive, Nashville, Tennessee, 37243
Alternative: Via Teams

The meeting was held via TEAMS. A physical location (Bureau's Large Conference Room) was available and designated but no one attended in person. The use of the virtual platform is a benefit to the public allowing participation of out-of-state stakeholders interested in the subjects of this meeting. Under the present restrictions on determining the vaccination status of all participants, the limitations of masking and distancing, it is necessary for establishment of a quorum that the members have the virtual option available. The committee rules provide for the members to be counted as present for the determination of a quorum (see rule 0800-02-23-.04 (2-3)).

Members:

Rob Behnke, Cracker Barrel
Misty D. Williams, Travelers
Ginny Howard, Zurich
David Tutor, MD, Occupational Medicine, Chair
John Brophy, MD, Neurosurgery
James G. Kyser, MD, Psychiatry
Jeff Hazlewood, MD, PM&R, Pain Management
Lisa Bellner, MD, PM&R Pain Management
Cerisia Cummings, DO, Bridgestone
Robert Snyder, MD, Medical Director
James Talmage, MD Assistant Medical Director
Abbie Hudgens, ARM, AIC
Keith Graves, DC

Staff:

Suzy Douglas, RN, BWC
Suzanne Gaines, BWC
Troy Haley, BWC
Jay Blaisdell, BWC

Guests:

Yarnell Beatty, Tennessee Medical Association
Adam Jaynes, MNA GR
David Price, Preferred Medical
Judy Bobbitt, Tennessee Orthopedic Alliance
Frederick Berriman, Erie Insurance
Christopher Chappell, Erie Insurance
Larry Brinton
Jonathan May, Morgan & Morgan
Katherine Moffat, TN Academy of PA's
Faith Parrish, VUMC
Tiffany Gryzbowski, Health Systems
Mary Walheim
Carla Townsend, NCCI
Thomas Koenig, MD, Tennessee Valley
Orthopaedics
Alex O'Neal, Arbitech Health
Susan Schulte, NCCI
Zach Roberts
Allie Jones
Carter Phillips, MNA GR
Tracy Wall, Eckman/Freeman
Terry Horn, VUMC
Roy Johnson, MD, MTOEM

Call to Order

The meeting was called to order at 1:02 PM by the Chair, Dr. Tutor.

Quorum

A quorum was confirmed as present (1/3 of the members needed, 12/16 members present).

Approval of Minutes

Dr Brophy suggested the following changes to the distributed minutes. Page 4:

“Dr. Brophy answered that the incorporation into one fusion is usual. Chronic adjacent segment is degenerative. The reason is medical with very few legitimately covered under worker’s womp. ~~Even if the fusion is revised, it should be covered under medical.~~”

The minutes of 3/9/2021 meeting were then approved with the changes made by Dr. Brophy.

Conflict of Interest

Dr. Snyder reminded committee members to sign and return the Conflict of Interest (COI) forms to Suzy Douglas as this is a new fiscal year.

Old Business

ODG Update:

Dr. Snyder highlighted changes to ODG for March 2021. This was the last of the monthly updates, with none since then.

3/31/2021 Neck, Anterior Cervical Fusion in Neck and Upper back, no major changes.

3/31/2021 Pain, Evidence summary update, did not change recommendation.

3/31/2021 Low Back, Epidural Steroid injection (ESI), “Series of Three”, for low back conditions.

Recommendation statement update. Evidence summary update. Ms. Williams noted and agreed with the change.

3/31/2021 Pain, Epidural steroid injections (ESIs) for pain, recommendation statement update, criteria update.

3/31/2021 Pain, Ketamine infusion for CRPS, pain conditions, evidence summary update.

e/eq/2021 Pain, Metaxalone (Skelaxin®) for pain, changed recommendation grade, evidence summary update, changed to eliminate use.

3/31/2021 Pain, muscle relaxants for pain, recommendation statement update, criteria update, evidence summary update, changed to eliminate use.

3/31/2021, Neck, posterior cervical fusion in neck and upper back, changed recommendation grade, evidence summary update.

3/31/2021 Shoulder, rotator cuff graft (patch) for shoulder conditions, recommendation statement update, evidence summary update, condition approved in certain circumstances.

3/31/2021 Low Back, spinal cord stimulators (SCS) for low back conditions.

3/31/2021 Pain, spinal cord stimulators (SCS) for pain, recommendation statement update.

3/31/2021 Pain, spinal cord stimulators for CRPS, pain conditions, recommendation statement update, criteria update, evidence summary update. Dr. Snyder noted that they are still conditionally recommended.

3/31/2021 Formulary, muscle relaxants, Baclofen, Y, Ozobax®, N, New entry, not recommended.

Dr. Snyder added that the Formulary update for July will be added to website.

Dr. Bellner had questions about the entry for muscle relaxants. Dr. Snyder said that although these muscle relaxants are not recommended, their use is not absolutely forbidden but might get reviewed. Dr. Hazlewood stated that UR would probably deny them immediately, but muscle relaxants are necessary because sometimes people need them to sleep.

A question was raised: Is there a way to pre-approve? It was observed that it might be possible by notifying the pharmacy vendor.

Dr. Tutor asked if there was any recourse to prior approval as in some circumstances muscle relaxants are appropriate.

Dr. Bellner was concerned about spasticity; she did not want to lose some medications for spasms. There was discussion about the difference between true spasms and backaches. Dr. Hazlewood pointed out that many patients need muscle relaxants to help with sleep as an alternative to more potent meds. Drs. Talmage, Hazlewood and Bellner will send suggestions to Dr. Snyder to forward to ODG.

Misty Williams made a motion to accept ODG with pending suggestions to muscle relaxant recommendations. Dr. Talmage seconded, and there were none opposed.

Legislative Update:

Troy Haley presented the legislative updates.

The Worker's Comp Advisory Council was extended to 6/25/2025.

PC 88 transfers the administration of construction service provider registry from the Secretary of State to the Bureau of Worker's Comp effective 1-1-2022.

PC 142 established presumption for Emergency Services workers concerning COVID, but some criteria must be met.

PC 152 regarding awarding of additional attorney's fees and costs when an employer wrongfully denies claims or benefits to employees became effective 7/1/2021 extending to 6/30/2023.

The Next Step program has been extended for 4 years to 6/30/2025.

Judges may conduct judicial mediation.

The Coverage and Compliance Units have additional enforcement authority.

A commission has been established to report on medical cannabis in 2022.

Rule Update:

The telehealth rules were reviewed at the Attorney General's office and approved and moved on to be reviewed in September at the Government Operations Committee.

The Medical Fee Schedule rule has been filed with the Secretary of State.

The hearing is set for 8/18/2021 at 1:00 PM for the e-billing rules. It will be a "live" meeting. Other sets of rules are under revision or some new rules may be drafted.

Legislative proposals that have a due date for January 2022 have already been submitted to the Governor.

Dr. Tutor asked for questions after Troy Haley's presentation.

Dr. Bellner commented that the emergency order for telemedicine for pain clinics has expired on 5/31/2021. As she is registered as a pain clinic, she can no longer use telemedicine to prescribe any controlled substance. This has not been well publicized.

It was suggested that a bill could be taken to the legislature that could draw support from the committee. It was cautioned it might be two years before anything can change.

In the interest of guests, the Chair agreed to move the AMA Guides® discussion next.

New Business:

The AMA has announced that effective July 1, 2021, new updates will be published to the 6th edition yearly with the 2021 changes effective on that date. The AMA will cease to publish the book version and all access will be online by subscription.

The 2021 changes were primarily to the mental health Chapter 14 and some minor table identification changes to Chapters 16 and 17.

Dr. Talmage reported that you can pay for access to the AMA guides, but the terms and conditions say that you cannot copy or transmit any of the material. You cannot copy and paste sections in medical reports. This makes it unusable in Tennessee. Until this issue is resolved, committee should postpone adopting change.

Dr. Koenig has contacted the AMA and voiced concerns and reviewed them with this committee. The AMA has announced that it will make changes every year. This is a problem because patients will have to be assessed by different editions on a yearly basis. The present cost of the book, which lasted over 10 years is now equal to the cost of a one-year subscription, increasing the expense to the users over tenfold. To obtain this edition, you must pay \$279.00 annually and agree to above mentioned terms and conditions.

Dr. Snyder noted that a preliminary change to the statute had been submitted as part of the legislative packet, adopting the 2021 version but also a further change. Currently, the date of injury determines which issue of AMA guides that will be used. If the 2021 version was to be adopted, that would have to be changed to the date of the Permanent Impairment evaluation to simplify the knowledge base that the evaluator would have to keep up with. This would be a fundamental change in the way impairments are evaluated.

Dr. Talmage reviewed some of the changes in the mental health chapter. He noted that in 2013, American Psychiatric Association (APA) published DSM-5 removing and reclassifying several mental disorders and changed criteria from DMS-IV. These criteria and names have changed, and this is

reflected in the 2021 6th edition. (DMS-IV is the basis for the current 6th edition.) Recommendations are changed for testing in the new edition to reflect the latest supported versions.

The list of ratable disorders has changed. Current editions of AMA cannot rate somatic disorder. Sixth edition personality disorders are now ratable. Dr. Talmage noted other examples.

Questions were discussed, why would they change the document? Income? DSM produces a lot of income for the APA. It is also a political document with identity politics and inclusiveness. This has nothing to do with science but has more to do with political pressure.

DSM 5 is more employer friendly than DSM-IV. The psychiatric rating scale is weighted to things that don't apply to injured worker.

A request to the AMA for changes to the terms and conditions and to release Dr. Talmage's analysis has not yet been answered by the AMA. . At this time, the full details or actual text of the changes are not available to the committee to evaluate.

The statute (T.C.A. § 50-6-204) requires the MAC to evaluate and report its findings and a recommendation to the Administrator within 6 months of the release of a new edition. Dr. Snyder agreed that it was not right for any sort of motion at this time; a complete analysis needs to be available to the committee. Until MAC can actually see and discuss the impact, no action can be taken. Dr. Talmage suggested further discussion wait until the next meeting.

According to the AMA, in September 2021, the changes for 2022 will be to the spine chapter, patient outcomes, and traumatic brain injury.

Abbie Hudgens observed that presently, it is impossible for MAC to make a report as required by law, and that any legislative proposal be withdrawn for now.

The MAC needs to see these updates. It will stay on the MAC agenda but be removed from the Governor's legislative agenda. Administrator Hudgens will arrange a conference call to communicate with the AMA.

Old Business continued:

Dr. Snyder followed with further reports.

Utilization Review:

UR report:

Approximately 1400 UR appeals were received in the last fiscal year. It takes an average of 14 days from receipt of all records with 2 days for determination from the medical staff.

Penalty Referrals:

13 violations of UR rules were sent to the penalty unit since the last meeting.

Three reviewing physicians were not of same or similar specialty.

Two were duplicate records up to 5000 pages.

One used wrong the citations in ODG.

Two UR decisions were issued without current medical records.

Five were violations for time delays. Most of these were resolved when further information was received from the adjuster.

REWARD and Certified Physician Program

Meetings to advertise and implement program to improve return to work efforts, develop online content, and added reimbursements for certified physicians. Certified physicians will have to complete specific online courses for different organizations.

There are suggested courses for mid-levels, but they could not meet criteria of state because they cannot issue opinions. This is higher level of requirements.

COVID Update

There have been 7822 claims filed in Tennessee for COVID related illnesses. The peak was 12/2020—1522 claims were filed and 40% were denied. As of 5/2021—61 claims filed and less than 10 were denied. Twenty-four claims by a Petition for Benefits Determination (PBD) have been filed. Six cases have gone on to the Court of Worker's Compensation Claims (CWCC).

Settlement of most of the other claims occurred with mediation.

One death claim has been filed in Tennessee and is settlement discussions.

One claim was dismissed when the claimant failed to show for a hearing.

A few requests for post COVID pulmonology evaluations have been received by the Bureau.

The fall agenda may have a training course for physicians to evaluate post COVID residuals, Estimated to be between 10 and 20 percent. This is a complex situation with not enough information right now.

Next Meeting:

The next meeting will still be virtual, Tuesday September 21, 2021, 1:00 PM CDT.

Adjournment:

The meeting was adjourned by Dr. Tutor at 2:40 PM.